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VIA ECF

Hon. Brian R. Martinotti, U.S.D.J.
United States District Court, District of New Jersey
Frank Lautenberg Post Office & U.S. Courthouse
2 Federal Plaza, 3rd Floor
Newark, New Jersey 07102

Re: *In re Insulin Pricing Litigation*, Case No. 2:23-md-3080 (BRM/RLS)

Dear Judge Martinotti,

We represent the plaintiffs in *LDG Medical Services Group et al. v. Eli Lilly and Company et al.*, Case No. 23-cv-01515 (D.P.R.) and *Sistema Integrado de Salud del Oeste, L.L.C. ("SISO") et al. v. Eli Lilly and Company et al.*, Case 3:34-cv-01315 (D.P.R.). Our clients are independent physician associations, which bear the costs of insulin for their beneficiaries in Puerto Rico.

The *LDG Medical* and *SISO* plaintiffs filed suits in Puerto Rico territorial court on September 5, 2023, and February 21, 2024, respectively. Thereafter, Defendants Caremark PCS Health, LLC and Caremark Puerto Rico LLC (together, "Caremark Defendants") removed both cases to the U.S. District Court for the District of Puerto Rico, asserting federal question jurisdiction under the federal officer removal statute, 28 U.S.C. § 1442(a)(1).

Each of the *LDG Medical* and *SISO* plaintiffs timely moved for remand, on grounds that their complaints disclaimed any claims relating to federal programs (i.e., TRICARE and FEHB). Courts—including the U.S. District Court for the District of Puerto Rico—have remanded cases involving similar disclosures for lack of federal jurisdiction. *See Gov't of Puerto Rico v. Eli Lilly & Co.*, No. CV 23-1127 (JAG), 2023 WL 4830569, at *1-*2 (D. P.R. July 13, 2023) ("Here, the Complaint asserts that '[t]he Government is not seeking relief relating to any federal program (e.g., Medicaid, Medicare) or any contract-related to a federal program.... Defendants cannot reasonably claim that the actions they took with respect to non-federal contracts were 'taken on behalf of an officer of the United States and under color of office.'"); *State of Ohio v. Ascent Health Services LLC, et al.*, No. 2:23-cv-1450, 2024 WL 23187, at *4 (S.D. Ohio Jan. 2, 2024).

The *LDG Medical* and *SISO* plaintiffs' cases were transferred to the above captioned multi-district litigation ("MDL") before the District Court ruled on the plaintiffs' motions for remand. Plaintiff's liaison counsel has advised undersigned counsel that the parties do not view the motions for remand filed by the *LDG Medical* and *SISO* plaintiffs as automatically pending before this Court. Accordingly, undersigned counsel submit this letter requesting permission to file the *LDG Medical* and *SISO* plaintiffs' motions for remand on this Court's docket. Because the plaintiffs assert the

same arguments for remand, the *LDG Medical* and *SISO* plaintiffs request leave to file a single motion jointly (the “Joint Motion”).

Caremark notes that similar remand issues are presented in appeals currently pending before the First and Fourth Circuits. Caremark, however, does not oppose the request by the *LDG Medical* and *SISO* plaintiffs to file their joint motion to remand now, subject to the briefing schedule the parties have agreed upon, set forth below:

October 18, 2024	Deadline for <i>LDG Medical</i> and <i>SISO</i> plaintiffs to file the Joint Motion.
December 6, 2024	Deadline for Caremark Defendants to file an opposition to the Joint Motion.
January 3, 2025	Deadline for <i>LDG Medical</i> and <i>SISO</i> plaintiffs to file a reply in support of the Joint Motion.

For these reasons, and pursuant to CMO #5, the *LDG Medical* and *SISO* plaintiffs request leave to file the Joint Motion on this Court’s docket, in accordance with the foregoing briefing schedule to which Caremark Defendants have agreed.

Respectfully submitted,

/s/ Jason W. Burge

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